



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: GILON=1

In re Application of:	) Art Unit: 1639
	)
Chiam GILON	) Examiner: J. Epperson
	)
Appln. No.: 10/034,212	) Washington, D.C.
	)
Filed: January 3, 2002	) Confirmation No. 7766
	)
For: NEW HETEROCYCLIC COMPOUNDS,	) October 21, 2004
METHOD OF DEVELOPING NEW...	)

**NEW REPLY TO RESTRICTION REQUIREMENT**

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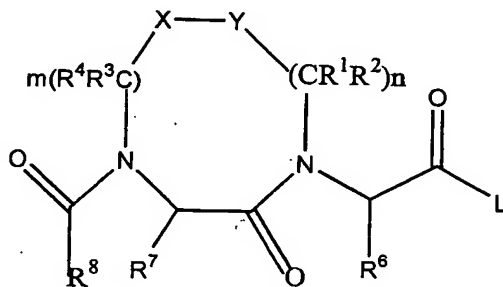
Sir:

In view of the communication from the PTO mailed October 6, 2004, applicant will again try to respond to the restriction requirement of September 30, 2003. However, applicant maintains that the Reply filed March 30, 2004, was fully responsive as set forth in applicants' Supplemental Reply filed July 15, 2004, the latter in response to the communication from the PTO mailed June 30, 2004.

Because this response is filed within one month of the communication of October 6, 2004, no further extension fee is due.

### I. Species election

Regarding the species election, Applicant respectfully elects scaffold 1:



More specifically, Applicant elects said scaffold 1 where:

X and Y are each S;

m and n are each 6;

$R^1$ ,  $R^2$ ,  $R^3$  and  $R^4$  are each H;

$R^6$  and  $R^7$  are each benzyl;

$R^8$  is benzyloxycarbonyl; and

L is  $NH_2$ .

In addition, Applicant believes this species election reads on pending claims 1 to 5, 7, 8 and 20.

### II. Restriction requirement

Applicant also wishes to reiterate that, in response to the restriction requirement, Group I (claims 1 to 11 and 20) was elected with traverse. More particularly, Applicant

was required to elect a single ring structure specifying X, Y, Z, W, m, n and parts (a) and (b). In this regard, Applicant now elects part (a) to be  $-N(CHR^6COL)-$ ; and Applicant elects part (b) to be  $-N(COR^8)-CH(R^7)-$ . Applicant reiterates the prior election of X and Y as S; Z as  $-C(O)$ ; W as a direct bond; and m and n as each 6.

Further, in response to this ring requirement, Applicant wishes to clarify that only ring atoms were specifically required to be elected. Thus, for example, in "Z" the ring atom is carbon and therefore  $-C(O)$  and  $-CH_2-$  should be included. Similarly, in parts (a) and (b) the ring atom is nitrogen.

Applicant also respectfully requests that the ring requirement be slightly expanded so that m and n can be 1 to 6. This merely modifies the number of ring carbons and does not alter the number or nature of ring heteroatoms. Such compounds have a common core structure and, indeed, have been made as such. (See the list of compounds in Table 1, where m and n are each 4 to 6).

Regarding other aspects of the restriction requirement, Applicant respectfully requests that Group III, claims 16 to 19 and 21, be rejoined. In this regard, Applicant notes that Group III is directed a compound of claim

Appln. No. 10/034,212  
Reply dated October 21, 2004  
Reply to Office Action of October 6, 2004

5, which is in elected Group I, and a pharmaceutically acceptable carrier. Accordingly, rejoining Group III for examination would not constitute a serious burden, and thus rejoining Group III would be in accordance with the requirement of the second paragraph of MPEP 803.

Finally, as mentioned previously, Groups VIII, IX and X should be rejoined as they are in the same class and subclass as elected Group I.

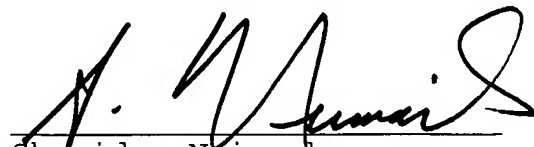
To the extent not inconsistent with what is presented above, applicant respectfully repeats by reference the remarks of the Reply filed March 30, 2004.

Applicant respectfully requests favorable consideration, and respectfully awaits the results of a first examination on the merits.

Respectfully submitted,

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